

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA

v.

ROBERT GIVEN,

DEFENDANT

)
)
)
)
)
)
)
)
)
)

CRIMINAL No. 05-95-P-H

**ORDER WITH REGARD TO RETROACTIVE COCAINE BASE
(CRACK) GUIDELINE AMENDMENT**

In this case, the defendant Robert Given faced a mandatory sentencing floor of 5 years because he pleaded guilty to possession with intent to distribute 5 or more grams of cocaine base (crack). He received 39 months because the government moved to depart under Guideline § 5K1.1 and 18 U.S.C. § 3553(e). The change in the retroactive cocaine base (crack) Guideline amendment does not help him. His statutory sentencing floor remains at 5 years (60 months) and thus the reduction for cooperation-type factors remains the same as well. As a result, although the court has appointed counsel for Given and has undertaken this independent review of the effect of the retroactive cocaine base (crack) Guideline amendment (without any motion from Given), I conclude that there is no basis to reduce his sentence.

According to a Supplemental Presentence Report the Probation Office has prepared under Guideline § 1B1.10, Given was placed at a halfway house and

subsequently released (in January, 2008) to home confinement. He is scheduled to be released altogether and begin his term of supervised release on April 19, 2008.

SO ORDERED.

DATED THIS 28TH DAY OF FEBRUARY, 2008

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE

**U.S. DISTRICT COURT
DISTRICT OF MAINE (PORTLAND)
CRIMINAL DOCKET FOR CASE #: 2:05CR95 (DBH)**

United States of America

represented by Renee M. Bunker
Office of the U.S. Attorney
District Of Maine
100 Middle Street Plaza
Portland, ME 04101
(207) 780-3257
email: renee.bunker@usdoj.gov

v.

Robert Given,

Defendant

Represented by Sarah A. Churchill
Strike, Goodwin & O'Brien
400 Allen Avenue
Portland, ME 04103
(207) 878-5519
email: schurchill@sgolawyers.com